

including specifically the filing requirement, if the agency whose approval is required finds that approval of such transaction is necessary to prevent the probable failure of one of the institutions involved.

[43 FR 33544, July 31, 1978, as amended at 48 FR 34436, July 29, 1983]

§ 802.9 Acquisition solely for the purpose of investment.

An acquisition of voting securities shall be exempt from the requirements of the act pursuant to section 7A(c)(9) if made solely for the purpose of investment and if, as a result of the acquisition, the acquiring person would hold ten percent or less of the outstanding voting securities of the issuer, regardless of the dollar value of voting securities so acquired or held.

Examples: 1. Suppose that acquiring person “A” acquires 6 percent of the voting securities of issuer X, valued at \$30 million. If the acquisition is solely for the purpose of investment, it is exempt under section 7A(c)(9).

2. After the acquisition in example 1, “A” decides to acquire an additional 7 percent of the voting securities of X. Regardless of “A”’s intentions, the acquisition is not exempt under section 7A(c)(9).

3. After the acquisition in example 1, acquiring person “A” decides to participate in the management of issuer X. Any subsequent acquisitions of X stock by “A” would not be exempt under section 7A(c)(9).

§ 802.10 Stock dividends and splits.

The acquisition of voting securities, pursuant to a stock split or pro rata stock dividend, shall be exempt from the requirements of the act under section 7A(c)(10).

§ 802.20 Minimum dollar value.

An acquisition which would be subject to the requirements of the act and which satisfies section 7A(a)(3)(A), but which does not satisfy section 7A(a)(3)(B), shall be exempt from the requirements of the act if as a result of the acquisition the acquiring person would not hold:

(a) Assets of the acquired person valued at more than \$15 million; or

(b) Voting securities which confer control of an issuer which, together with all entities which it controls, has annual net sales or total assets of \$25 million or more.

Examples: 1. Acquiring person “A” intends to acquire 66 percent of the voting securities of corporation X from X’s ultimate parent entity, W, and “A” holds no other assets or voting securities of acquired persons “W”. X has no subsidiaries and does not have annual net sales or total assets of \$10 million. If the postacquisition value of “A”’s holdings of voting securities of X would be \$15 million or less, the acquisition would be exempt under this section.

2. Assume that acquiring person “B” holds voting securities of corporation Q valued at \$9 million. “B” now intends to acquire assets of Q valued at \$7 million. Since the aggregate total amount of voting securities and assets of “Q” to be held by “B” would exceed \$15 million, section 7A(a)(3)(B) would be satisfied, and the acquisition would not be exempt under this section.

3. Assume that acquiring person “C” holds \$5 million of the voting securities of corporation R, an entity included within person “T.” “C” now proposes to acquire \$8 million of the assets of corporation S, also an entity included within person “T,” representing 20 percent of “T”’s total assets. Section 7A(a)(3)(B) is not satisfied because the aggregate total amount of “C”’s holdings in acquired person “T” will be less than \$15 million. Although section 7A(a)(3)(A) would be satisfied by the asset acquisition, it will nevertheless be exempt under paragraph (a) of this section.

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§ 802.21 Acquisitions of voting securities not meeting or exceeding greater notification threshold.

An acquisition of voting securities shall be exempt from the requirements of the act if:

(a) The acquiring person and all other persons required by the act and these rules to file notification filed notification with respect to an earlier acquisition of voting securities of the same issuer;

(b) The waiting period with respect to the earlier acquisition has expired, or been terminated pursuant to § 803.11, and the acquisition will be consummated within 5 years of such expiration or termination; and

(c) The acquisition will not increase the holdings of the acquiring person to meet or exceed a notification threshold greater than the greatest notification threshold met or exceeded in the earlier acquisition.

Examples: 1. Corporation A acquires 15 percent of the voting securities of corporation B